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SENATE BILL 680

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joseph J. Carraro

AN ACT

**RELATING TO DWI; CHANGING THE PERIOD OF REVOCATION UNDER THE
IMPLIED CONSENT ACT FOR A LICENSE, PERMIT TO DRIVE OR
NONRESIDENT OPERATING PRIVILEGE FOR A PERSON UNDER THE AGE OF
21.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 66-8-111 NMSA 1978 (being Laws 1978,
Chapter 35, Section 519, as amended) is amended to read:**

**"66-8-111. REFUSAL TO SUBMIT TO CHEMICAL TESTS--TESTING--
GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE. --**

**A. If a person under arrest for violation of an
offense enumerated in the Motor Vehicle Code refuses upon
request of a law enforcement officer to submit to chemical
tests designated by the law enforcement agency as provided in
Section 66-8-107 NMSA 1978, none shall be administered except**

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1 when a municipal judge, magistrate or district judge issues a
2 search warrant authorizing chemical tests as provided in
3 Section 66-8-107 NMSA 1978 upon his finding in a law
4 enforcement officer's written affidavit that there is probable
5 cause to believe that the person has driven a motor vehicle
6 while under the influence of alcohol or a controlled substance,
7 thereby causing the death or great bodily injury of another
8 person, or there is probable cause to believe that the person
9 has committed a felony while under the influence of alcohol or
10 a controlled substance and that chemical tests as provided in
11 Section 66-8-107 NMSA 1978 will produce material evidence in a
12 felony prosecution.

13 B. The department, upon receipt of a statement
14 signed under penalty of perjury from a law enforcement officer
15 stating the officer's reasonable grounds to believe the
16 arrested person had been driving a motor vehicle within this
17 state while under the influence of intoxicating liquor or
18 [~~drug~~] drugs and that, upon his request, the person refused to
19 submit to a chemical test after being advised that failure to
20 submit could result in revocation of his privilege to drive,
21 shall revoke the person's New Mexico driver's license or any
22 nonresident operating privilege for a period of one year or
23 until all conditions for license reinstatement are met,
24 whichever is later.

25 C. The department, upon receipt of a statement

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1 signed under penalty of perjury from a law enforcement officer
2 stating the officer's reasonable grounds to believe the
3 arrested person had been driving a motor vehicle within this
4 state while under the influence of intoxicating liquor and that
5 the person submitted to chemical testing pursuant to Section
6 66-8-107 NMSA 1978 and the test results indicated an alcohol
7 concentration of eight one-hundredths or more in the person's
8 blood or breath if the person is twenty-one years of age or
9 older or an alcohol concentration of two one-hundredths or more
10 in the person's blood or breath if the person is less than
11 twenty-one years of age, shall revoke the person's license or
12 permit to drive or his nonresident operating privilege for a
13 period of:

14 (1) ninety days or until all conditions for
15 license reinstatement are met, whichever is later, if the
16 person is twenty-one years of age or older;

17 (2) [~~six months~~] one year or until [~~all~~
18 ~~conditions for license reinstatement are met, whichever is~~
19 ~~later~~] the person is twenty-one years of age, whichever is
20 later, if the person is less than twenty-one years of age [~~and~~
21 ~~has not previously had his license revoked pursuant to the~~
22 ~~provisions of this section~~], notwithstanding any provision of
23 the Children's Code; or

24 (3) one year or until all conditions for
25 license reinstatement are met, whichever is later, if the

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1 person has previously had his license revoked pursuant to the
2 provisions of this section, notwithstanding the provisions of
3 Paragraph (1) [~~or (2)~~] of this subsection or any provision of
4 the Children's Code.

5 D. The determination of alcohol concentration shall
6 be based on the grams of alcohol in one hundred milliliters of
7 blood or the grams of alcohol in two hundred ten liters of
8 breath.

9 E. If the person subject to the revocation
10 provisions of this section is a resident or will become a
11 resident within one year and is without a license to operate a
12 motor vehicle in this state, the department shall deny the
13 issuance of a license to him for the appropriate period of time
14 as provided in Subsections B and C of this section.

15 F. A statement signed by a law enforcement officer,
16 pursuant to the provisions of Subsection B or C of this
17 section, shall be sworn to by the officer or shall contain a
18 declaration substantially to the effect: "I hereby declare
19 under penalty of perjury that the information given in this
20 statement is true and correct to the best of my knowledge.". A
21 law enforcement officer who signs a statement knowing that the
22 statement is untrue, in any material issue or matter, is guilty
23 of perjury as provided in Section 66-5-38 NMSA 1978. "